



New South Wales

# Liquor Amendment (Reviews) Bill 2017

## Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

## Overview of Bill

The object of this Bill is to amend the *Liquor Act 2007* and other gaming and liquor legislation to implement miscellaneous reforms arising out of the Callinan review and various departmental reviews. Some of the reforms arising out of the reviews were implemented by the *Liquor Amendment Regulation 2016* and this Bill implements most of the remainder of those reforms.

The Bill makes the following amendments:

- (a) to modify the “3 strikes” disciplinary scheme so that, in the case of licensed premises other than a club, a strike will be incurred by the licensee or manager of the licensed premises rather than in respect of the licence,
- (b) to authorise the Independent Liquor and Gaming Authority (*ILGA*) rather than the Secretary of the Department of Industry (the *departmental Secretary*) to suspend a licence if liquor is sold to a minor on the licensed premises,
- (c) to enable provisions (including special licence conditions) relating to the Kings Cross precinct to be consolidated with the provisions currently relating to the Sydney CBD Entertainment precinct (referred to as *prescribed precincts* in the Liquor Act),
- (d) to extend (until 1 June 2018) the freeze on the granting of liquor licences and other authorisations for premises situated in a prescribed precinct and to modify the operation of the freeze provisions,
- (e) to provide that fees and charges payable under the gaming and liquor legislation (including monetary penalties imposed by ILGA in connection with disciplinary action and any duty or levy required to be paid under the *Casino Control Act 1992*) are to be paid to the departmental Secretary,

- (f) to make other amendments of a minor, administrative or consequential nature.

## Outline of provisions

**Clause 1** sets out the name (also called the short title) of the proposed Act.

**Clause 2** provides for the commencement of the proposed Act on a day or days appointed by proclamation. However, the amendments providing for the payment to the departmental Secretary of fees and other money under the gaming and liquor legislation will commence on 1 July 2017.

## Schedule 1 Amendment of Liquor Act 2007 No 90

### Modification of licence freeze in prescribed precincts

**Schedule 1 [7]** extends (until 1 June 2018) the period (the *freeze period*) during which the granting of licences, various other liquor-related authorisations and development consents in respect of premises situated in a prescribed precinct (*subject premises*) is to be restricted. **Schedule 1 [4]–[6], [8] and [14]** are consequential amendments.

**Schedule 1 [9]–[13] and [15]–[18]** also modify the operation of the licence freeze as follows:

- (a) by removing the prohibition on the granting of a producer/wholesaler licence for subject premises,
- (b) by removing provisions that prevent ILGA from taking certain action in respect of subject premises (such as granting authorisations or changing the boundary of premises) if that action may (or is likely to) result in an increase in the number of people who enter the precinct in which the premises are situated principally to consume alcohol,
- (c) by providing that ILGA is no longer prevented from approving the removal of a producer/wholesaler licence to subject premises.

**Schedule 1 [19]–[21] and [48]** remove obsolete or redundant provisions.

### Consolidation and modification of provisions relating to prescribed precincts

**Schedule 1 [28]** removes provisions relating to the Kings Cross precinct that are currently replicated in the Liquor Act in the provisions relating to prescribed precincts. The regulations currently prescribe the Sydney CBD Entertainment precinct as a precinct and the intention is to do the same for the Kings Cross precinct. The amendments made by **Schedule 1 [1], [3], [23], [25], [29]–[32], [39], [45] and [46]** are consequential on the Kings Cross precinct being treated as a prescribed precinct and on the consolidation of the existing separate provisions relating to the 2 precincts.

**Schedule 1 [34]** provides that the departmental Secretary, rather than the Minister, may exempt the licensee of a high risk venue in a prescribed precinct from the patron ID scanning requirement under section 116E (1) (a) of the Liquor Act and approve the form and manner of making an application for such an exemption.

**Schedule 1 [35]** provides that the departmental Secretary may exempt the licensee of a high risk venue from the patron ID scanning requirement only if the Secretary is satisfied that the exemption is unlikely to result in an increase in the level of alcohol-related violence or anti-social behaviour or other alcohol-related harm in the prescribed precinct in which the high risk venue is situated.

**Schedule 1 [36]** provides that a temporary banning order may prohibit a person from entering or remaining on any licensed premises in a prescribed precinct. However, **Schedule 1 [37]** provides that the prohibition does not include licensed restaurants that are not high risk venues and do not trade after midnight.

**Schedule 1 [40]** makes it clear that the regulations may authorise the departmental Secretary to declare by order in writing any specified part of premises situated in a prescribed precinct to be subject to the special licence conditions that apply to licensed premises in a prescribed precinct.

### **Modification of 3 strikes disciplinary scheme**

**Schedule 1 [44]** substitutes Part 9A of the Liquor Act to modify the basis on which strikes are incurred in relation to licensed premises and to make other changes to the way in which the 3 strikes scheme operates. The new Part has the following new features:

- (a) the list of offences committed on licensed premises that may attract a strike will still include breaching licence conditions but will be limited to those conditions that restrict the trading hours of licensed premises or prohibit patrons from entering licensed premises at certain times,
- (b) in the case of licensed premises other than club premises, strikes are incurred by the licensee or manager of the premises and no longer attach to the licence,
- (c) in the case of club premises, any strike will continue to be incurred on the licence,
- (d) any decision to impose a strike or to take remedial action in respect of a strike (which includes imposing licence conditions) will be made by ILGA rather than the departmental Secretary,
- (e) any such decision by ILGA will be reviewable by NCAT,
- (f) the licensee or manager of licensed premises may also apply to ILGA for a review of its decision to impose a strike,
- (g) the licence conditions that may be imposed if a strike is incurred will include conditions relating to the employment of persons as the licensee or manager of the licensed premises.

### **Miscellaneous amendments**

**Schedule 1 [2] and [33]** update references as a consequence of past administrative changes.

**Schedule 1 [24]** provides that the fee for the approval by ILGA of the removal of a licence to other premises is to be paid to the departmental Secretary.

**Schedule 1 [26]** provides that persons who are agents (or acting on behalf) of a hotelier are, along with employees and hotel residents, authorised to be in the bar area of the hotel after closing time. The amendment made by **Schedule 1 [27]** removes an unnecessary provision relating to the offence committed by hoteliers if unauthorised persons are in the bar area after closing time.

**Schedule 1 [38]** inserts a missing conjunction.

**Schedule 1 [41]** provides that ILGA, rather than the departmental Secretary, may suspend a licence if liquor is sold to a minor on the licensed premises. **Schedule 1 [42]** provides that any such decision to suspend a licence is reviewable by NCAT.

**Schedule 1 [43]** provides that any monetary penalty or costs ordered by ILGA in connection with disciplinary action under Part 9 of the Liquor Act is to be paid to the departmental Secretary.

**Schedule 1 [47]** contains savings and transitional provisions consequential on the enactment of the proposed Act. In particular, any strikes incurred under Part 9A of the Liquor Act before the substitution of that Part by the proposed Act are revoked.

## **Schedule 2      Amendment of other gaming and liquor legislation**

**Schedule 2** contains amendments to certain gaming and liquor legislation:

- (a) to ensure that fees and charges (including monetary penalties imposed by ILGA and any duty or levy payable under the *Casino Control Act 1992*) are payable to the departmental Secretary and to provide that the departmental Secretary may recover, as a debt, any such money that is payable to the Secretary under the gaming and liquor legislation, and
- (b) to update references as a consequence of recent administrative changes, and
- (c) to make other amendments of an administrative or consequential nature.